

## II. REMARKS

Claims 1 to 22 are pending in the subject application. Claims 2, 3, 5-9, 12 and 14 to 22, have been withdrawn from consideration as a result of a requirement for restriction. Claims 1, 4 and 10 to 13 are pending and were examined in the September 22, 2004 Office Action. By this Amendment and Response, claims 4 and 10 to 13 have been canceled without prejudice or disclaimer to Applicant's right to file one or more continuation applications on the same or similar subject matter. The cancellation of these claims is not intended to be a dedication to the public of the subject matter of these claims. The amendments to the claims are made in a sincere effort to place the application in condition for allowance or in better form for consideration on appeal. The amendments were not made earlier as it is Applicant's belief that the earlier presented claims set forth patentable subject matter.

An issue of new matter is not raised by these amendments to the claims. Support for the amendment to claim 1 and the addition of new claim 20 is found in the application papers in paragraphs [0079] to [0083] and paragraph [0135]. An issue of new matter is not raised by these amendments and entry thereof is respectfully requested. Amended claim 1 and new claim 20 is presently under examination.

In view of the preceding amendments and reply, reconsideration and withdrawal of the objections/rejections set forth in the September 22, 2004 Office Action is respectfully requested.

### 35 U.S.C. § 112

Claims 1, 4, 10, 11 and 13 remain rejected under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for phosphoramidatyl deoxyuridine compounds which fall within the scope of NB 1011, allegedly does not reasonably provide enablement for all phosphoramidatyl deoxyuridine compounds. Without conceding the correctness of the Office's position, and in a sincere effort to place the application in

condition for allowance, the claims have been amended to remove the grounds for rejection. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

### Supplemental Information Disclosure Statement

Attached to this Reply is a Supplemental Information Disclosure Statement for filing in connection with the subject application. Consideration and entry of the cited documents is respectfully requested.

### III. CONCLUSION

If a telephone interview would advance prosecution of the above-identified application, the Examiner is invited to telephone the undersigned attorney at the number provided below. Additionally, if the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 2518**, referencing No. 7008412001. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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